

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

ASD SPECIALTY HEALTHCARE, INC. d/b/a)
ONCOLOGY SUPPLY,)

Plaintiff,)

v.)

ONCOLOGY HEMATOLOGY CENTERS OF)
ATLANTA, P.C. and LLOYD G. GEDDES,)

Defendants.)

CIVIL ACTION NO.
1:05-CV-591-MEF-SRW

SECOND AMENDED SUPPLEMENTAL DECLARATION OF FEES

COUNTY OF JEFFERSON

:

:

SS

STATE OF ALABAMA

:

Heath A. Fite, Esquire, an adult individual, being duly sworn according to law, deposes and states as follows:

1. I am an associate at the law firm of Burr & Forman LLP, which serves as counsel for the plaintiff ASD Specialty Health Care, Inc., d/b/a Oncology Supply ("ASD"), in the above-captioned action.

2. I am submitting this Second Amended Supplemental Declaration of Fees in accordance with the Court's direction.

3. The fees and costs incurred by ASD for services rendered by this firm through September 15, 2006 equal \$9,713.37, of which \$881.37 represents costs.

4. I performed the services provided by this firm on the above-captioned action. Between June 2005 and December 2005, my hourly rate was \$180.00. From and after January 2006, my hourly rate was \$205.00.



5. These hourly rates were and are within the range of prevailing market rates in the Birmingham, Alabama legal community for similar services by lawyers of reasonably comparable skills, experience and reputation.

6. Attached hereto as Exhibit "A" is my biography, the contents of which are true and correct, and which reflects that I have significant experience in commercial litigation generally and handling disputes on behalf of lenders specifically.

7. I therefore respectfully submit that the hourly rates charged by me for services rendered on the above-captioned action are reasonable for an attorney of my relative skills, experience and reputation.

8. Additionally, the charges billed by this firm represent charges for work that was reasonably necessary.

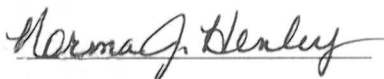
9. From inception through September 15, 2006, I worked 44.40 hours on the prosecution of this action. Attached hereto as Exhibit "B" is a general summary of the tasks performed, and of the approximate time billed to each of those tasks, as well as of costs incurred, for all bills issued for my firm's work on the above-captioned action to date.

10. I respectfully submit that this Court may utilize its own experience to determine the reasonableness of the hourly rates charged by me, of the hours spent on this matter, and of the costs charged.

I could testify competently as to these matters if called upon so to do. I make these statements upon penalty of perjury.


Heath A. Fite, Esquire

Sworn to and subscribed
Before me, this 20th day of
October 2006.



NOTARY PUBLIC

My commission expires: 02/02/10



Heath A. Fite // Associate
Expertise: Financial Services

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About Heath

Heath practices in the firm's Litigation section and handles commercial disputes in state and federal trial and appellate courts in Mississippi and Alabama and in arbitration. Heath regularly represents financial institutions, including banks, mortgage companies, and finance companies, in all manner of disputes with consumer and commercial borrowers. Heath has experience in representing corporate defendants against allegations of Truth in Lending Act ("TILA") and Fair Credit Reporting Act ("FCRA") violations, and recently spoke about FCRA and identity theft at a CLE seminar.

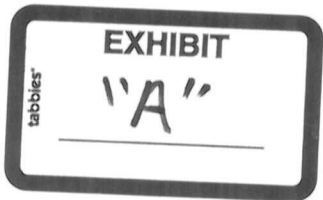
Before attending Vanderbilt University Law School, Heath received his B.A., *cum laude*, from Vanderbilt University, with majors in Mathematics and Philosophy, and his M.A. in Philosophy from the University of Kentucky. Following law school, he served as a judicial clerk to the Honorable Sharon Lovelace Blackburn, U.S. District Court for the Northern District of Alabama in the 2001-2002 term.

Education

J.D.,
Vanderbilt
University
Law School
M.A.,
Philosophy,
University
of
Kentucky
B.A., *cum
laude*,
Vanderbilt
University
Bar

Associations

American
Bar
Association
Alabama
State Bar
Mississippi
State Bar
Birmingham
Bar
Association



Heath Cross Examined

What are your hobbies? I enjoy spending time with my family, playing guitar and target shooting.

June 2005

3.0 hours @ \$180.00/hr

Review and revise proposed complaint and attached exhibits prepared by general counsel; research Alabama law relating to causes of action and relief requested; discuss and confer with general counsel regarding proposed changes; finalize and file complaint

July 2005

0.5 hours @ \$180.00/hr

Receive and review answer from defendants and discuss/confer with general counsel re: strategy based on the same

August 2005

0.1 hours @ \$180.00/hr

Receive/review court's 8/10/06 order and confer with general counsel regarding same

September 2005

0.2 hours @ \$180.00/hr

Receive communication from court regarding need to file report of party planning meeting and inform general counsel of same

October 2005

3.1 hours @ \$180.00/hr

Research various issues re: service; research new address for registered agent for corporate defendant; confer with general counsel regarding status of service and payoff amount needed for seeking default judgment; review motion for entry of default against corporate defendant and affidavit supporting same; tentative draft of motion for default judgment and supporting affidavit



November 2005

2.1 hrs @ \$180.00/hr

Finalize motion for default judgment and supporting affidavit; Receipt and review of court's 11/14/05 show cause order; Review file and pacer docket and confer with general counsel regarding status of action

December 2005

1.3 hrs @ \$180.00/hr

Receive/review court's order denying motion for default judgment; research/review court's cited precedent regarding same and related caselaw; confer with general counsel regarding same; Receive/review correspondence sent to defendants regarding and enclosing proposed party planning meeting report

January 2006

1.2 hrs @ \$205.00/hr

Review and file unilateral party planning meeting report given defendants' refusal to participate in planning meeting; Confer with general counsel re: initial disclosures and review same for submission

February 2006

0.4 hrs @ \$205.00/hr

Prepare and edit motion for pro hac vice admission of Mr. Branzburg

March 2006

6.5 hrs @ \$205.00/hr

Review pleadings and research Federal Rules of Civil Procedure 16 and 26 relating to defendants' refusal to participate in party planning meeting report; Prepare revised proposed party planning meeting report and draft/edit correspondence to defendants enclosing same and expressing urgency of their compliance with Rule 26(a)(1) obligations; prepare discovery requests for service; Draft/edit motion to compel initial disclosures and motion for entry of scheduling order; confer with Geddes via telephone re: same

April 2006

4.1 hrs @ \$205.00/hr

Confer with Defendants' new counsel regarding status of case and upcoming hearing on motion to compel and for entry of scheduling order; prepare for/travel to and participate in hearing in Montgomery; receive/review scheduling order

June 2006

1.3 hours @ \$205.00/hr

Draft/edit motion to amend complaint and amended complaint to correct ambiguity/clerical error in pleading; File and edit objection to motion to withdraw

July/August 2006

0.3 hrs @ \$205.00/hr

Confer with court clerk and general counsel regarding necessity of in-person appearance in hearing on motion to withdraw

4.1 hrs @ \$205.00/hr

Prepare for/travel to/ represent client in hearing on motion to withdraw and defendants' refusal to participate in action; update general counsel on results of hearing and plan for obtaining judgment via Rule 37; confer with defendants' counsel re deposition dates

0.8 hrs @ \$205.00/hr

Draft/edit deposition notice for Geddes and Rule 30(b)(6) notice for the corporate defendant

0.9 hrs @ \$205.00/hr

Confer with general counsel re depositions and preparation for same; review pleadings and identify and review deposition exhibits

4.0 hrs @ \$205.00/hr

Prepare for, travel to and conduct depositions of defendants

4.7 hrs @ \$205.00/hr

Draft/edit rule 37 motion for sanctions for discovery violations and attorney affidavit supporting same

0.3 hrs @ \$205.00/hr

Research re: damages proof

September 2006:

5.0 hrs @ \$205.00/hr

Prepare for/travel to/confer with witness concerning/ and participate in hearing to prove damages

0.5 hrs @ \$205.00/hr

Prepare supplemental attorney affidavit re attorney fees and costs